UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION 5:23-cv-100-RJC

TRE M. PARKER,)	
Plaintiff,)))	
VS.	j	
NC DEPARTMENT OF PUBLIC SAFETY, et al.,)))	ORDER
Defendants.)	

THIS MATTER is before the Court sua sponte.

The pro se incarcerated Plaintiff filed this action pursuant to 42 U.S.C. § 1983, addressing incidents that allegedly occurred at the Alexander Correctional Institution.¹ [Doc. 1]. He is proceeding in forma pauperis. [Doc. 7]. On August 11, 2023, the Court dismissed the Complaint on initial review. [Id.]. The Court granted the Plaintiff 30 days to file a superseding Amended Complaint. [Id.]. The Plaintiff was cautioned that, "[s]hould the Plaintiff fail to timely amend his Complaint in accordance with this Order, the Court will dismiss this action without further notice." [Id. at 6]. A copy of the Order on initial review was mailed to the Plaintiff at his address of record on the same day it was entered. The Plaintiff has failed to file a superseding Amended Complaint and the time to do so has expired.

The Plaintiff appears to have abandoned this action and the Court is unable to proceed. This case will therefore be dismissed without prejudice. <u>See</u> Fed. R. Civ. P. 41(b) ("If the plaintiff

¹ The Plaintiff originally filed this action in the Eastern District of North Carolina, and it was transferred to this Court on June 21, 2023. [Docs. 1, 8].

fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it."); <u>Link v. Wabash R.R. Co.</u>, 370 U.S. 626, 630-33 (1962) (although Rule 41(b) does not expressly provide for sua sponte dismissal, Rule 41(b) does not imply any such restriction and a court has the inherent power to dismiss a case for lack of prosecution or violation of a court order).

IT IS, THEREFORE, ORDERED that this action is DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that the Clerk of Court is directed to terminate this action.

Signed: October 30,

Robert J. Conrad, Jr.

United States District Judge